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DOCKET NO. 51864

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
MIDLOTHIAN TO AMEND ITS	§	
WATER CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
ELLIS COUNTY	§	

COMMISSION STAFF’S SUPPLEMENTAL RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS

On March 2, 2021, the City of Midlothian (Midlothian) filed an application to amend its water certificate of convenience and necessity (CCN) No. 11706 and to decertify a portion of Mountain Peak Special Utility District’s water CCN No. 10908 in Ellis County, Texas. The requested service area consists of 201 customer connections and approximately 53 acres. Midlothian filed supplemental information on March 10, 2021, April 19, 21, and 23, 2021, as well as on August 23, 2021.

On June 28, 2021, the administrative law judge (ALJ) filed Order No. 4, establishing a deadline of September 27, 2021 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation regarding the administrative completeness of the application. Therefore, this pleading is timely filed.

I. SUPPLEMENTAL RECOMMENDATION

Staff has reviewed the supplemental information and application and as detailed in the attached memoranda from Patricia Garcia of the Infrastructure Division, and the memoranda by Fred Bednarski of the Rate Regulation Division included as an attachment to Staff’s Recommendation on Administrative Completeness and Proposed Procedural Schedule filed March 31, 2021, Staff recommends that the application is administratively complete. Staff’s recommendation on administrative completeness is not a comment on the merits of the application.

II. NOTICE

At this time, Staff recommends that Midlothian proceed with providing public notice to all landowners, neighboring utilities, political subdivisions, and other persons listed in the attached memorandum using the notice form provided by Ms. Garcia. Along with each individual notice, Staff recommends that Midlothian provide an accurate map delineating the requested service area.

Staff further recommends that Midlothian publish notice of the application for two consecutive weeks in a newspaper of general circulation Ellis County.

Once notice has been provided, Staff recommends that Midlothian file proof of notice as described in the attached memorandum, including an affidavit specifying the name and address of every person and entity to whom notice was provided, the date that the notice was provided, and a copy of the map provided with the notice. Midlothian should also provide a completed publisher's affidavit and a copy of the newspaper tear sheets demonstrating publication. Finally, Staff recommends that Midlothian use the attached notices and affidavits to meet these requirements.

III. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule:

Event	Date
Deadline for Midlothian to file with the Commission signed affidavits that the notice was given along with a copy of the notice and map sent to the affected parties and published in a newspaper of general circulation	November 5, 2021
Deadline for Staff to file a recommendation on sufficiency of notice	November 19, 2021
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the application be found administratively complete, that Midlothian be directed to provide notice as described in Ms. Garcia's attached memorandum, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: September 27, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
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/s/ Kevin R. Bartz
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 27, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz
Kevin R. Bartz

Public Utility Commission of Texas

Memorandum

TO: Kevin Bartz, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: September 27, 2021

RE: Docket No. 51864 – *Application of the City of Midlothian to Amend its Water Certificate of Convenience and Necessity in Ellis County*

On March 2, 2021, the City of Midlothian (Midlothian) filed with the Public Utility Commission of Texas (Commission) an application to amend its water certificate of convenience and necessity (CCN) No. 11706 and to decertify a portion of Mountain Peak Special Utility District's water CCN No. 10908 in Ellis County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. The requested area includes 201 customer connections and approximately 53 acres, comprised of 41 acres of uncertificated area and 12 acres of decertified area from CCN No. 10908.

The application proposes the addition of approximately 53 acres to CCN No. 11706 and the subtraction of approximately 12 acres from CCN No. 10908.

Based on the mapping review by Gary Horton, Infrastructure Division, the maps submitted by Midlothian on August 23, 2021 and the digital data submitted on March 10, 2021 are sufficient. Based on my technical and managerial review of the additional information filed by Midlothian on August 23, 2021, I recommend that the application be deemed administratively complete. I further recommend that Midlothian be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
 - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
 - *Midlothian MMD 3*
 - *Mountain Peak SUD (CCN No. 10908)*
 - *Sardis-Lone Elm WSC (CCN No. 10058)*
 - *Trinity River Authority of Texas*

- b. The county judge of each county that is wholly or partially included in the requested area:
 - *Ellis County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
 - *Prairielands Groundwater Conservation District*
- d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by Midlothian from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <http://www14.tceq.texas.gov/iwud/>.

- 2) Publish notice once each week for two consecutive weeks in a newspaper having general circulation in the county where the requested area is located. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Midlothian must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.
- 4) Provide a copy of the map(s) deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
- 5) File in the docket a copy of notice and the map(s) deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

Notice for Publication

NOTICE OF APPLICATION OF THE CITY OF MIDLOTHIAN AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICE AND TO DECERTIFY A PORTION OF MOUNTAIN PEAK SPECIAL UTILITY DISTRICT IN ELLIS COUNTY, TEXAS

The City of Midlothian has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 11706 and to decertify a portion of Mountain Peak Special Utility District's water CCN No. 10908 for the provision of retail water utility service in Ellis County, Texas.

The requested area includes 201 customer connections, is located approximately 1.5 miles south-southeast of downtown Midlothian, Texas, and is generally bounded on the north by Mt. Zion Road; on the east by Oak Tree Lane; on the south by SCS Reservoir No. 5; and on the west by S 14th Street.

The requested area includes approximately 53 acres, comprised of 41 acres of uncertificated area; and 12 acres of decertified area (from CCN No. 10908).

The application proposes the addition of approximately 53 acres to CCN No. 11706 and the subtraction of approximately 12 acres from CCN No. 10908.

A copy of the map showing the requested area is available at: Midlothian City Hall, 104 West Avenue E, Midlothian, Texas 76065

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

Notice to Neighboring Systems, Landowners, Customers, and Cities

NOTICE OF APPLICATION OF THE CITY OF MIDLOTHIAN AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICE AND TO DECERTIFY A PORTION OF MOUNTAIN PEAK SPECIAL UTILITY DISTRICT IN ELLIS COUNTY, TEXAS

To: _____
(Neighboring System, Landowner, Customer or City)

Date Notice Mailed: _____, 20__

(Address)

(City State Zip)

The City of Midlothian has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 11706 and to decertify a portion of Mountain Peak Special Utility District’s water CCN No. 10908 for the provision of retail water utility service in Ellis County, Texas.

The requested area includes 201 customer connections, is located approximately 1.5 miles south-southeast of downtown Midlothian, Texas, and is generally bounded on the north by Mt. Zion Road; on the east by Oak Tree Lane; on the south by SCS Reservoir No. 5; and on the west by S 14th Street.

The requested area includes approximately 53 acres, comprised of 41 acres of uncertificated area; and 12 acres of decertified area (from CCN No. 10908).

The application proposes the addition of approximately 53 acres to CCN No. 11706.
The application proposes the subtraction of approximately 12 acres from CCN No. 10908.

See enclosed map showing the requested area.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person’s name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area (“opt out”) within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner’s tract of land, landowner’s name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:
Notice Form Updated: September 17, 2021

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES, AND AFFECTED PARTIES

DOCKET NO. 51864

STATE OF TEXAS

COUNTY OF _____

_____ has provided individual notice to the following entities, landowners and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as _____ (indicate relationship to applicant, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of applicant); that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the notices given with this application, and have complied with all notice requirements in the application and application acceptance letter; and that all such statements made and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT DOCKET NO. 51864

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____,
who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20 ____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____